Remarks

A Notice of Non-Compliant Amendment mailed October 30, 2008, requested clarification of claim identifiers. With this response, Applicants have added proper status identifiers to the claims and timely submit the response within the one-month or 30-day shortened time period provided.

As provided in the listing of claims beginning on page 2 of this paper, Claims 1-37 and 72-75 have been cancelled without prejudice. Claims 38, 40, 43-44, 47-48, 50-54, 56, 58, 65, and 69-71 have been withdrawn. Claims 70 and 71, while withdrawn, have been amended as to matters of form. New Claims 76-114 have been added and find support in the priority application, International Application No. PCT/IB2004/000978 filed on 31 March 2004. The newly entered claims correspond with claims as filed with International Application No. PCT/IB2004/000978. As such, Claims 76-114 do not include new matter and do not reflect a departure therefrom in substance or variation in the disclosure from the priority application, which is International Application No. PCT/IB2004/000978. As such, Applicants respectfully submit that the new claims provided herewith should be entered and examined on the merits. Such claims are believed to be in condition for allowance. Favorable consideration for and allowance of these claims are therefore respectfully requested.

The statements below are responsive to an Office Action mailed December 27, 2007.

In numbered paragraph 3 of the Office Action mailed December 27, 2007, the Examiner requested affirmation of an election made by phone on September 6, 2007. With this paper, Applicants affirm election of Group 1 claims, directed to an article as provided in new Claims 76-114. Claims not cancelled without prejudice have been withdrawn with this paper.

In numbered paragraph 4 of the Office Action mailed December 27, 2007, Claims 23, 29, 31, 72 were objected to for using the term "and" instead of "to." Applicants have corrected such claims now present as new Claims 96-105. Similar amendments to the specification have been provided herewith and are respectfully submitted for entry. Additional amendments to the

specification are directed to matters of form and/or consistency. No new matter has been introduced with the amendments to the specification that begins on page 2 of this paper.

In numbered paragraph 6 of the Office Action mailed December 27, 2007, Claims 31 and 72 were rejected under 35 U.S.C 112, second paragraph. For Claim 31, the Examiner stated that the density did not have units rendering it indefinite. As pointed out by the Examiner in the Office Action and as is known to one of ordinary skill in the relevant field, density of such fiber cement products are generally in units of g/cm^3. However, relative density, as claimed, is a ratio of two quantities of the same type and, hence, dimensionless (without units). Accordingly, Applicants submit that claims directed to relative density do not require units and Applicants respectfully request the rejection for indefiniteness be removed. For Claim 72, the claim is rejected for not including "identification of what the values entail." Applicants have amended new Claims 96-100 to include the value "on a dry weight basis," as interpreted by the Examiner in the Office Action. Applicants point out that the value was included in canceled Claims 23 and 58 illustrating that such amendments to 96-100 do not add new matter.

In numbered paragraphs 2 and 8 of the Office Action mailed December 27, 2007, the article claimed is said to be anticipated by U.S. Application Publication No. 2002/0139082 (herein, "DeFord"). The Examiner states that DeFord discloses a "fiber cement facing (sealer)" that "is reinforced with individual fibers." Applicants agree that the facing of DeFord is fiber cement and is reinforced with individual fibers; however, it is noted that a fiber cement material is not, to one of skill in the art, considered a sealer or a carbonation reducing sealer. As disclosed in the as-filed specification and as is understood by one of skill in the art, a sealer is a "coating or film" and must be "substantially free of holes, pores, cracks. . . that allow relatively rapid ingress of water or carbon dioxide" (pg. 6, ll. 14-19). A fiber cement facing is not free of holes, pores or cracks, which is why a fiber cement facing, such as that of DeFord, is said to require "interlayers comprised of organic or inorganic materials or mixtures thereof" for improving moisture control (e.g., para. [0095]). Morevoer, a fiber cement facing of DeFord is not 15 microns in overall thickness. Instead, the fiber cement facing of DeFord is preferably 1/8 inch (see para. [0015]) or 3/16 inch (see para. [0108]) or greater than 1 ½ inch (see para. [0170]) and will be thicker when interlayers are included for moisture control. DeFord also does not

describe anything about reducing a propensity for differential carbonation of a fiber cement product. In fact, the term "carbonation" does not appear anywhere in the DeFord reference. The Examiner suggests without any evidence that adding a water-proofing agent into a fiber cement facing will "prohibit carbonation." The Examiner has offered no proof of such a suggestion and Applicants again point out that DeFord certainly makes no such suggestion, either explicitly or implicitly. The Examiner is respectfully requested to provide clear and convincing evidence that a fiber cement facing of DeFord does, in fact, reduce propensity for differential carbonation because Applicants can find no such evidence or suggestion in the teaching itself. Thus, Applicants respectfully submit that DeFord does not teach each and every element of new Claim 76 and 111 for the reasons set forth herein. Applicants respectfully request the rejection under 35 U.S.C. 102(b) be removed.

In numbered paragraphs 2 and 9 of the Office Action mailed December 27, 2007, the article claimed is said to be with characteristics found obvious by DeFord in view of International Application No. WO 2001/068777 (herein, "Dornieden") and is rejected under 35 U.S.C. 103(a) as being obvious over DeFord in view of Dornieden. Applicants have previously submitted that DeFord does not teach each and every element of the claimed invention. Applicants also submit that DeFord does not teach the invention on its whole, which is a requirement for a showing of obviousness Applicants point out that the claimed invention teaches a fiber reinforced cement product to which is applied a sealer that is at least 15 microns in overall thickness, the sealer is applied so as to reduce propensity for differential carbonation of the fiber reinforced cement product. DeFord teaches a fiber cement facing (exterior layer), which is porous and <u>not</u> substantially free of holes, pores, cracks, and this fiber cement facing is layered on or around a porous core material. In DeFord, fiber cement facing, itself, is specifically taught to be at least about 1/8 thick to 3/16 thick to greater than 3/16 thick to 1½ inches thick, all of which are significantly thicker than 15 microns. The fiber cement facing of DeFord is not a sealer because it still allows water to permeate into the surface, as disclosed in para. [0184], and, furthermore, there is no evidence of any sort that the fiber cement facing of DeFord will reduce the propensity for differential carbonation of a fiber reinforced cement product. Contrary to the Examiner's statement on page 10 of the Office Action, DeFord does not

teach that a water-proofing agent in a fiber cement facing of DeFord "prohibits the carbonation of the coating further impeding (obstructing) migration." In fact, the only reference to a "water-proofing agent" in DeFord is provided in paragraph [0045], which is rewritten below and states absolutely nothing about prohibiting carbonation or impeding migration.

> [0045] The fiber cement additives can be chosen from a group including, but not limited to: silica fume, hollow ceramic spheres, cenospheres, geothermal silica, fire retardants, set accelerators, set retarders, thickeners, pigments, colorants, plasticizers, dispersants, foaming agents, flocculating agents, water-proofing agents, organic density modifiers, aluminum powder, kaolin, alumina trihydrate, mica, metakaolin, calcium carbonate, wollastonite, mineral oxides, mineral hydroxides, clays, magnesite or dolomite, metal oxides and hydroxides, pumice, scoria, tuff, shale, slate, perlite, vermiculite, polymeric beads, calcium silicate hydrate and polymeric resin emulsions, or any mixtures thereof. Preferred polymeric resins are products such as, but not limited to, acrylic latexes, styrene-butadiene latexes, or mixtures thereof. These latexes can be emulsions or be in a redispersible powder form. In portland cement-based materials, the latexes need to be stabilized to withstand the high-alkali environment.

Clearly, then, no such teaching of reducing propensity for differential carbonation in a fiber cement product can be found anywhere in DeFord. The Examiner is requested to point out any specific teaching; Applicants find that DeFord does not even use the term "carbonation" anywhere in the reference. Thus, for these reasons, DeFord cannot be a suitable reference for a showing of obviousness because the document offers no teaching or suggestion of important features, such as those claimed by Applicants and the DeFord reference does not teach each and every element of the claimed invention or provide such a teaching of the claimed invention on its whole. To then combine DeFord with Dornieden does not overcome any of the deficiencies of DeFord. DeFord combined with Dornieden also does no teach or suggest important, such as those claimed by Applicants, and the DeFord reference does not teach each and every element of the claimed invention or provide such a teaching of the claimed invention on its whole. For example, Dornieden does not specifically teach a fiber reinforced cement product or a carbonation reducing sealer. In fact, the term "carbonation" does not appear to be written anywhere in the Dornieden reference. As such, there is no reason to combine DeFord or Dorneiden nor is there any suggestion or expectation that such a combination will produce Applicants' claimed invention when there is no comparable teaching. Applicants' submit that

neither DeFord alone nor in combination with Dorneiden is obvious over the new claims. Applicants respectfully request the rejection under 35 U.S.C. 103(b) be removed.

In view of the statements presented above, new Claims 76-113 are believed to be in condition for allowance. Favorable consideration and allowance of such claims are therefore respectfully requested.

Conclusion

Applicants respectfully submits that the Application is in condition for allowance and earnestly seeks such allowance of the claims as provided with the listing of claims beginning on page 9 of this paper.

Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214.999.4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

No fees are believed due with this paper. To the extent that fees are required, such as petition fees, the Commissioner is hereby authorized to charge payment of such fees to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 131279-1050.

This is intended to be a complete response to an Office Action mailed on the date of December 27, 2007, as well as a Notice mailed October 30, 2008.

Please direct all correspondence to the practitioner listed below at Customer No. 60148.

Respectfully submitted,

Monique A. Vander Molen
Registration No. 53,716

Dated: December 1, 2008